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# CCDF 2015 NPRM Topical Webinar: Providing Equal Access to Stable, High Quality Child Care for Low-Income Children

# Presenters

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# Introduction

- Last year Congress passed the Child Care and Development Block Grant (CCDBG) Act of 2014 (P.L. 113-186) on a bipartisan basis. President Obama signed it into law November 19, 2014.
- The reauthorization was an historic re-envisioning of the Child Care and Development Fund (CCDF) program.
- This webinar summarizes certain components of the proposed rule.
- **For full text** see the Federal Register at <http://federalregister.gov/a/2015-31883>.



# What is a Notice of Proposed Rulemaking (NPRM)?

- Public notice of proposed federal regulations to address the law.
- Public comment period – 60 days from Federal Register publishing date (February 22, 2016).
- ACF will review public comments and issue final regulations.
- Projected final issuance Summer 2016.

# Proposed Changes

The proposed rule addresses the CCDBG Act of 2014, which includes provisions to:

- Protect the health and safety of children in child care
- Help parents make informed consumer choices and access information to support child development
- **Provide equal access to stable, high quality child care for low-income children**
- Enhance the quality of child care and the early childhood workforce

# Provide Equal Access to Stable, High Quality Child Care for Low-income Children

This webinar describes the following:

- Promoting Continuity of Child Care Assistance
- Improving Access for Children and Families Experiencing Homelessness
- Equal Access: Payment Rates and Practices
- Which Proposed Provisions Would Apply to Tribes?
- The Public Comment Process



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# Promoting Continuity of Child Care Assistance



# Lengthened Eligibility Periods

## (i) Minimum Period.-

(I) 12- Month Period.- The plan shall demonstrate that each child who receives assistance under this subchapter in the State will be considered to meet all eligibility requirements for such assistance and will receive such assistance, for not less than 12 months before the State or designated local entity redetermines the eligibility of the child under this subchapter, regardless of a temporary change in the ongoing status of the child's parent as working or attending a job training or educational program or a change in family income for the child's family, if that family income does not exceed 85 percent of the State median income for a family of the same size...

*CCDBG Act of 2014 (P.L. 113-186) Section 658E(c)(2)(N)(i)(I)*

*[45 CFR 98.21(a)]*



# Ensuring Minimum 12-Month Eligibility for Child Care Assistance

The NPRM would:

- Clarify that minimum 12-month eligibility applies to initial and subsequent eligibility periods. (45 CFR 98.21(a))
- Define “temporary” to include at a minimum:
  - specific time-limited absences from work or school (such as seasonal work or a school break),
  - any reduction in work, training or education hours, and
  - other changes to work, education, job training status that do not exceed three months. (45 CFR 98.21(a)(1)(ii))
- Prohibit shorter authorization periods within the minimum 12 month eligibility period.

[45 CFR 98.21(a)]

# Continuity During Eligibility Periods

At Determination & Redetermination	During Minimum 12 month Period
<p>Information needed to determine CCDF Eligibility:</p> <ul style="list-style-type: none"><li>• child age</li><li>• family income</li><li>• qualifying activity</li><li>• other information as determined by the Lead Agency</li></ul>	<p>Only required to report:</p> <ul style="list-style-type: none"><li>• changes that impact a child's eligibility (income exceeds 85% of SMI).</li></ul> <p>Lead Agency option to require reporting:</p> <ul style="list-style-type: none"><li>• if family experiences a non-temporary change in work, job training, or education status.</li><li>• information that impacts a Lead Agency's ability to communicate with parents or providers.</li></ul> <p>Family must be allowed to report changes at any time.</p> <ul style="list-style-type: none"><li>• Lead Agencies must act on information that is beneficial to the family amount of child care assistance or copayment level.</li></ul>

# CCDF Eligibility & Other Programs

**The NPRM would encourage alignment with other programs.**

For example, the Lead Agency could align with other benefit programs by “resetting the clock” on the eligibility period to extend the child’s CCDF eligibility by starting a new minimum 12-month period if the Lead Agency receives information that confirms the child’s eligibility and current copayment rate.

However, the Lead Agency cannot terminate assistance for a child prior to the end of the minimum 12-month period if the recertification process of another program reveals a change in the family’s circumstances, unless those changes impact CCDF eligibility.

# Flexibility for Working Parents

The law requires Lead Agencies to establish:

- Processes for initial determination and redetermination that take into account irregular fluctuations in earnings. (45 CFR 98.21(c))
- Procedures and policies to ensure that parents (esp. those receiving TANF) are not required to unduly disrupt employment, education or training. (45 CFR 98.21(d))

The NPRM would:

- Clarify that Lead Agencies are not required to limit authorized child care services strictly based on the work, training, or educational schedule of the parent(s) or the # of hours the parent(s) spend in those activities. (45 CFR 98.21(g))

# Focus on Children's Needs

The NPRM would:

- Require Lead Agencies to take into consideration children's development and learning and promote continuity of care when authorizing child care services. (45 CFR 98.21(f))
- Clarify that the protective services category may include specific populations of vulnerable children as identified by the Lead Agency. (45 CFR 98.20(a)(3)(ii))

# Continued Assistance before Optional Termination

(iii) Period before Termination.- At the option of the State, the plan shall demonstrate that the State will not terminate assistance provided to carry out this subchapter on a factor consisting of a parent's loss of work or cessation of attendance at a job training or educational program for which the family was receiving the assistance, without continuing the assistance for a reasonable period of time, of not less than 3 months, after such loss or cessation in order for the parent to engage in a job search and resume work, or resume attendance at a job training or educational program, as soon as possible.

*CCDBG Act of 2014 (P.L. 113-186) Section 658E(c)(2)(N)(iii)*

[45 CFR 98.21(a)(2)]

# Continued Assistance/Job Search

The NPRM would:

- Specify that assistance must be provided *at the same level* during this time. (45 CFR 98.21(a)(2))
- Clarify that there is no requirement to collect documentation during the minimum period of continued assistance to verify job search or other activity.
- Clarify that if, by the end of the 3 month period, the parent is again engaged in an eligible work, education, or training activity, assistance should not be terminated. Child should be allowed to continue receiving assistance until the next scheduled redetermination or be determined eligible for an additional minimum 12 month period.



# Providing a Graduated Phaseout

The law establishes a Graduated Phaseout for families who, at redetermination, exceed the initial CCDF Lead Agency income threshold

## Meeting the Graduate Phaseout Requirement

The NPRM specifies that CCDF Lead Agencies that establish income eligibility below 85% of State Median Income (SMI) must establish two-tiered eligibility and set their second tier at 85% SMI. The Lead Agency would have the option to:

- |   |   |
|---|---|
| 1. Allow a child to retain eligibility until the family exceeds 85% SMI, or | 2. Extend assistance for a limited period of time of at least a year. |
|---|---|

[45 CFR 98.21(b)]

The NPRM further specifies that Lead Agencies can increase co-pays during the graduated phaseout to help families transition off of child care assistance.

(45 CFR 98.21(b)(2))

# Eligibility Processes and Error Rate

The NPRM clarifies that the following situations are *not* considered errors or improper payments:

1. A child meets eligibility requirements at the most recent determination, but the family's circumstances change during the eligibility period.\*

(45 CFR 98.21(a)(4))

2. A child experiencing homelessness or a child in foster care is permitted to enroll prior to submitting all documentation, but is subsequently found to be ineligible.

(45 CFR 98.51(1))

\*Unless income exceeds 85% SMI or at Lead Agency option, the family experiences a non-temporary cessation in work or attendance in a job training or educational program.

# OCC Requests for Comment

Item	Citation
Any additional circumstances under which a Lead Agency should be allowed to end assistance prior to min. 12 month period.	45 CFR 98.21 p. 80485, column 2
Anticipated impacts of the proposed graduated phaseout provision.	45 CFR 98.21 p. 80487, column 2
Whether States should have option for 6-mo. interim reporting forms and if so, the best way to structure to promote continuity.	45 CFR 98.21 p. 80488, column 2
Whether States should be able to adjust co-payments or otherwise act on verified information received from other programs and the benefits/impacts.	45 CFR 98.21 p. 80488, column 2

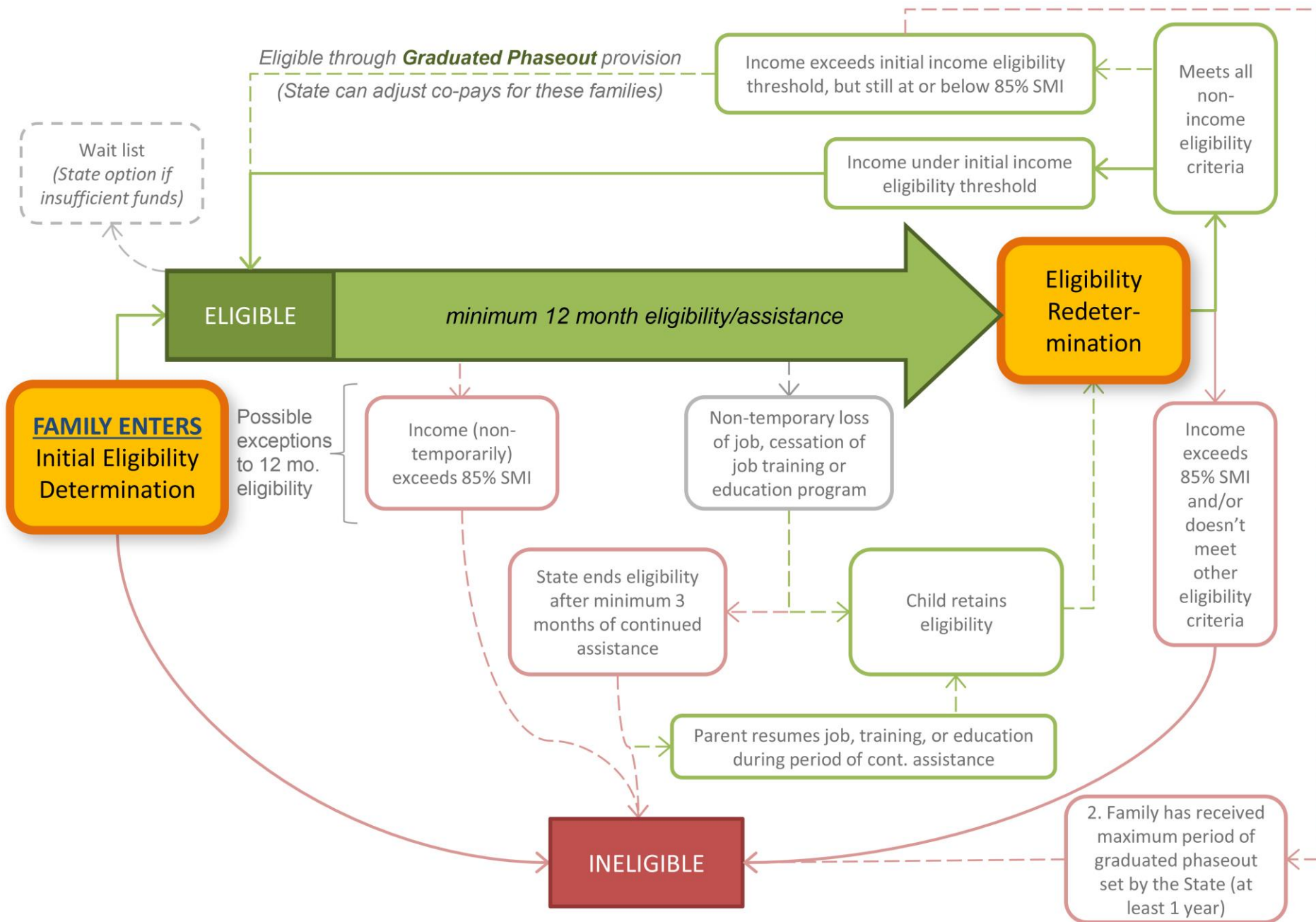


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# How Do the New Eligibility Policies Work Together?

# CCDF NPRM 2015: Subsidy Eligibility Policies





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# Improving Access for Children and Families Experiencing Homelessness



# Homeless Provisions

The CCDBG Act of 2014 requires:

- Procedures to permit enrollment of children experiencing homelessness prior to completion of all required documentation (including grace periods for compliance with immunization and other health and safety requirements (45 CFR 98.41(a)(1)(i)(C)).
- Training and technical assistance on identifying and serving homeless families.
- Specific outreach to families experiencing homelessness. [45 CFR 98.51]
- Coordination with programs working with children experiencing homelessness. (45 CFR 98.14(a)(1)(K))
- Lead Agencies to collect and report whether a CCDF family is experiencing homelessness. (45 CFR 98.71)



# Homeless Provisions

The NPRM adds additional provisions that would:

- Define homeless to be consistent with the definition in section 725 of Subtitle VII-B of the McKinney-Vento Act (i.e. definition used by Head Start and Dept. of Education) (45 CFR 98.2)
- Require Lead Agencies to coordinate with other relevant agencies to help families receiving services during a grace period comply with immunization and other health and safety requirements. (45 CFR 98.41(a)(1)(i)(C)(3))
- Clarifies that children experiencing homelessness shall be given priority for services. (45 CFR 98.46(a)(3))



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# Equal Access: Provider Payment Rates and Practices

# Equal Access: Components

The law continues to require the CCDF Lead Agency to certify in its Plan that payment rates for CCDF subsidies are sufficient to ensure equal access to child care services that are comparable to parents not eligible for CCDF. The NPRM would require CCDF Lead Agencies to provide the following summary of facts in its plan (**new provisions in bold**):

1. How a choice of the full range of providers is available.
2. How payment rates are adequate, **based on most recent market survey or alternative methodology; rates must be updated every three years.**
3. **How base payment rates support implementation of the health, safety, and quality requirements.**

# Equal Access: Components (Cont.)

4. **How payment rates allow CCDF families to access care of comparable quality to care available to families with incomes above 85% SMI.**
5. **How the Lead Agency took the cost of higher quality child care into account.**
6. How family co-payments are affordable.
7. **How payment practices support equal access to a range of providers.**
8. **How and on what factors the Lead Agency differentiates payment rates.**
9. Any additional facts considered by the Lead Agency.

# Payment Rates: Market Rate Survey or Alternative Methodology

The NPRM would require that Lead Agencies:

- Base provider payment rates on a valid market rate survey or alternative methodology (e.g. cost estimation model), and must:
  - Consult in advance with: State Advisory Council on Early Childhood Education and Care; local child care program administrators; local child care resource and referral agencies; organizations representing caregivers, teachers and directors; and other appropriate entities
  - Submit alternative methodology for advance ACF approval
  - Reflect variations by geographic location, category of provider, & age of child
- Requires making widely available a detailed report with results of market rate survey or alternative methodology no later than 30 days after its completion.

[45 CFR 98.45(c),(d),(e) and (f)]

# Family Co-Payments

- Provides for affordable co-payments that are not a barrier to families.
- Prohibit Lead Agency from increasing family co-payments within the minimum 12 month eligibility period (unless the family is eligible through the graduated phaseout provision). (45 CFR 98.21(a)(3))
- Sets a new recommended benchmark of no more than 7% of a family's income in the preamble.
- Prohibits charging parents additional mandatory fees above the family co-payment.
- Allows waiving of co-pays for families that meet criteria established by the Lead Agency (in addition to families below poverty or protective services).
- Prohibits co-pays based on the cost of care or amount of subsidy payment.

[45 CFR 98.45(k) and (l)]

# Improving Payment Practices and Provider Stability

- Ensure timely payment for services
  - Paying prospectively prior to delivery of services, **OR**
  - Paying within 21 days of receiving invoice for services rendered
- Delink provider payments from children's occasional absences to the extent practicable
  - Paying based on enrollment rather than attendance, **OR**
  - Providing full payment if child attends 85% of authorized time, **OR**
  - Providing full payment if child is absent 5 or fewer days, **OR**
  - An alternative approach justified in the CCDF Plan

[45 CFR 98.45(m)]



# Improving Payment Practices and Provider Stability (Cont.)

- Reflect generally-accepted payment practices, including (unless the Lead Agency provides evidence that such practices are not generally-accepted):
  - Paying on a part-time or full-time basis (rather than smaller increments)
  - Paying for mandatory fees that providers charge to private-paying parents (such as registration fees)
- Provide payment for any services in accordance with payment agreement or authorization for services.
- Ensure child care providers receive prompt notice of changes to a family's eligibility status that may impact payment.
- Include timely appeal and resolution processes for any payment inaccuracies and disputes.

# Requests for Comment

Item	Citation
How to best assess the comparability of child care quality between CCDF families and those above 85% SMI.	45 CFR 98.45 p. 80514, column 2
A possible benchmark or metric for measuring adequacy of rates set by alternative methodologies, as comparable to the 75 <sup>th</sup> percentile.	45 CFR 98.45 p. 80514, column 2
Impact of prohibiting providers from charging families above the copy on parents and providers, incl. whether ACF should provide a phase-in period for implementation.	45 CFR 98.45 p. 80516, column 1
Whether proposed benchmarks for provider payment practices or other benchmarks should be included in final rule.	45 CFR 98.45 p. 80516, column
Alternatives to 3 examples of approaches that States may want to use for absence day policies.	45 CFR 98.45 p. 80517, column 1



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# Which Proposed Provisions Would Apply to Tribes?

# A Tiered Approach to Tribal Requirements

The NPRM establishes three tiers of tribal grantees based on the size of their allocation, with reduced requirements for medium and especially smaller allocations.

- Tribes with Large Allocations: over \$1 million (18 Tribes)
- Tribes with Medium Allocations: \$250,000 to \$1 million (79 Tribes)
- Tribes with Small Allocations: under \$250,000 (162 Tribes)

[45 CFR 98.80(a)]

# Applicability to Tribes

- Tribes receiving large and medium allocations are subject to the majority of these requirements. Tribes receiving small allocations are exempt from many of the subsidy requirements (45 CFR 98.83(f)).
- The NPRM allows Tribes receiving large or medium allocations the option to consider any Indian child eligible, regardless of a family's work/income/training status if the Tribe's Median Income is below 85% of the State Median Income (45 CFR 98.81(b)(1)).
- Tribes with small allocations have flexibility to set their own eligibility requirements (45 CFR 98.83(f)).
- All Tribes are exempt from the conducting a market rate survey or alternative methodology. (But Tribes receiving large or medium allocations must have rates that support quality.) (45 CFR 98.83(d)(1)(iv)).



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# Public Comment Process

# Comment Process

You may submit comments, identified by docket number ACF-2015-0011 and/or RIN number 0970-AC67, by either of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Submit comments to the Office of Child Care, Administration for Children and Families, 330 C Street SW, Washington, DC 20201, Attention: Office of Child Care Policy Division.



# Comment Process (cont.)

- All submissions received must include the agency name and docket number or RIN number for this rulemaking.
- To ensure we can effectively respond to your comment(s), clearly identify the issue(s) on which you are commenting. Provide:
  - the page number;
  - identify the column; and
  - cite the relevant paragraph/section from the Federal Register document, (e.g., On page 10999, second column, § 98.20(a)(1)(i).).

# Comment Process (cont.)

- All comments received are a part of the public record and will be posted for public viewing on [www.regulations.gov](http://www.regulations.gov), without change. That means all personal identifying information (such as name or address) will be publicly accessible. Please do not submit confidential information, or otherwise sensitive or protected information.
- We accept anonymous comments. If you wish to remain anonymous, enter “N/A” in the required fields.

Thank you for all you do for  
children and families.

For additional information and resources on the  
NPRM, please visit our CCDF Reauthorization  
webpage at:

[http://www.acf.hhs.gov/programs/occ/ccdf-  
reauthorization](http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization)